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NO. CAAP-24-0000431

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

LESLIE CABRAL, as Personal Representative
of the Estate of LEONARD CABRAL, JR.; and
NICHOLAS CABRAL, Plaintiffs-Appellants,
v.
PALI MOMI MEDICAL CENTER, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CCV-22-0000466)

ORDER DENYING MOTION FOR RECONSIDERATION
(By: Nakasone, Chief Judge, Hiraoka and Wadsworth, JJ.)

Upon consideration of *Pali Momi Medical Center's Motion for Reconsideration of the Opinion Issued August 18, 2026*, filed on September 8, 2026,¹ the response filed by **Leslie** Cabral, the estate of Leonard Cabral Junior, Leonard Cabral **Senior**, and **Nicholas** Cabral (together, the **Cabrals**) on September 22, 2026, and the record, it appears that:

1. The Cabrals' claim that Pali Momi is vicariously liable for Dr. Castanera's alleged medical negligence was not part of the first trial because the trial court had granted partial summary judgment for Pali Momi on that claim. The Opinion vacated the vicarious liability partial summary judgment and remanded for a trial on the vicarious liability claim only.

¹ We granted Pali Momi's motion for extension of time to move for reconsideration.

2. On remand, Nicholas can pursue his claim for negligent infliction of emotional distress (**NIED**), as he did in the first trial, based on the theory of vicarious liability. Pali Momi contends the Opinion "seems to suggest that on remand Nicholas can also proceed with a vicarious liability claim" even though his "wrongful death claim was dismissed long before trial, in a decision the Cabrals did not appeal." Nothing in the Opinion resurrects Nicholas's wrongful death claim.

3. Pali Momi contends the rulings on Leslie's and Senior's NIED and wrongful death claims from the first trial should bind them in the trial on remand. Those rulings, and the issues presented by the Cabrals' appeal, were based on the record of the first trial. Those rulings were not affirmed; we declined to decide whether they were erroneous because even if they had been, the jury's finding that Pali Momi was not liable on the claims presented made the issue moot.

4. The second trial will be based on a theory of vicarious liability not presented in the first trial. It remains to be seen what evidence the Cabrals will present. If Leslie and Senior present evidence that supports their NIED and wrongful death claims based on Pali Momi's vicarious liability for acts or omissions of Dr. Castanera, Pali Momi will have to deal with the record actually made, not the record from the first trial.

Therefore, IT IS HEREBY ORDERED that Pali Momi's Motion for Reconsideration is denied. Nothing in the Opinion or in this order should be construed to alter the legal effect of the October 31, 2023 *Stipulation for Partial Dismissal with Prejudice of Defendant Shayne M. Castanera, M.D. and to Amend Caption*, which was never before this court.

Dated: Honolulu, Hawai'i, October 7, 2026.

/s/ Karen T. Nakasone
Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge